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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,076	01/26/2006	Ralf Wiedemann	102792-507(11270P4 US)	1082
27380	7590	04/19/2010		
PARFOMAK, ANDREW N. NORRIS MCLAUGHLIN & MARCUS PA 875 THIRD AVE, 8TH FLOOR NEW YORK, NY 10022			EXAMINER HECKERT, JASON MARK	
			ART UNIT	PAPER NUMBER
			1711	
			MAIL DATE	DELIVERY MODE
			04/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/560,076

Applicant(s)

WIEDEMANN ET AL.

Examiner

JASON HECKERT

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/23/09 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.
3. In regards to claim 1 and 37, applicant argues that Bellati does not teach that the closing means is located within the body enclosing the detergent or detergent additive. While this may be true, Rodd teaches a device in which the mechanism for opening and closing an outlet is located within the body. Thus, one of ordinary skill realizes that the bimetallic mechanism can be located in the interior or the apparatus or on the exterior of the apparatus, and provide the same expected result of triggering the opening of an outlet. Applicant has failed to present an unobvious or unexpected result based on their arrangement, and the prior art establishes that both arrangements are known.
4. In regards to claim 2, applicant argues that the location of the bimetallic closing means is not taught by Rodd. However, Rodd does teach a body enclosing detergent, an outlet at a first end, and a closing means located at a second end, but does not

appear to disclose the body being interposed between the thermal activator and the outlet. The only difference between Rodd and the instant application is the location of the thermal mechanism. The location still provides the same function of opening an outlet, but is just located in a different area. Absent a showing of unexpected results, such a modification is considered to be obvious as it is a mere rearrangement of previously disclosed parts. Rearrangement of parts was held to have been obvious. *In re Japikse* 86 USPQ 70 (CCPA 1955).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-13, 32-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Bellati in view of Rodd. Bellati discloses an automatic detergent dispensing device comprising a body 4 that has a pair of apertures 9 readable on an inlet and outlet located at a lower end of the body. Temperature sensitive actuation means open and close apertures 9 allowing water to contact a detergent tablet. The actuation means comprise a bimetallic strip element 30. The bimetal element moves a blocking device, readable on a plug, from a position where at least one of the apertures is closed, to a position where at least one of the apertures is open. Bellati discloses that the element snaps in a temperature range of 35 to 60 degrees Celsius (col. 9 lines 15-25). Bellati discloses that the device returns to its normal shape at a temperature in the vicinity of

ambient temperature. Room temperature is generally around 20 – 30 degrees Celsius. Thus, Bellati is believed to anticipate a lower snap temperature in the range claimed in claim 8. At least one part of the bimetal element is attached with body 4, and the other part of the detent mechanism biases with the closing element 2 (col. 9 lines 5-45). The bimetal element is in the form of a pre-existing three dimensional shape. The bimetal element interacts with the plug element and moves the plug with respect to the body during the temperature change. The bimetal strip element is clamped to the rear of the body, which can be considered a plate. The body is water resistant. The body also comprises a channel in communication with the inlet. A detergent tablet is disposed within the channel. The body has a substantially uniform bore (see figures) that is readable on a tube. The device can be used with compositions other than detergent, such as those in claim 38. Bellati does not disclose locating the bimetallic mechanism in the interior of the body. However, one of ordinary skill realizes that this is a mere rearrangement of parts that does not have significant impact on the functionality of the mechanism. The device still includes the same parts, with the same functionality, just arranged in a different but obvious manner. For example, Rodd (discussed in further depth below), teaches an opening mechanism located on the interior of a body, as opposed to exterior. Thus, it was well established at the time of invention that the bimetallic mechanism can be located on the exterior or interior of the detergent containing apparatus. It would have been obvious at the time of invention to modify Bellati and include the bimetallic mechanism in the interior of the apparatus, as disclosed by Rodd, in order to close an outlet.

7. Claims 1, 2, 20-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodd et al. in view of Bellati. In one embodiment, Rodd et al. discloses a portable bulk detergent dispenser containing a detergent container 19, an outlet 28, a dosing area 20 readable on an auxiliary chamber, and a thermally responsive closure means (bimetal or wax) 23 with a piston or ram 25 (see figures 7 and 8). The wax swells upon contact with water present in the machine. The dosing area operates in synchronization with the closure means. A linkage 21 is disposed between the auxiliary closure and main body closure. Rodd also teaches other embodiments responsive to other water conditions, such as pressure. Liquid or solid detergents can be used. Rodd discloses various means to control the amount of fluid that enters the auxiliary chamber, which is also readable on a collecting funnel. The auxiliary chamber has a drain. Rodd does not teach an opening for the inlet of wash liquor. Bellati teaches inlet apertures 9 for receiving wash water. Such inlet also reads on a second linkage. It would have been obvious at the time of invention to modify Rodd and include an inlet, as this requires only routine skill and is obviated by the teachings of Bellati.

8. In regards to the location of the bimetallic element, as stated previously, such a modification is considered to be a mere rearrangement of parts that fails to present an unexpected result. Rearrangement of parts was held to have been obvious. *In re Japikse* 86 USPQ 70 (CCPA 1955). Rodd et al. discloses a portable bulk detergent dispenser containing a detergent container 19, an outlet 26 located at a first end of the body, and a thermally responsive closure means (bimetal or wax) 23 with a piston or ram 25 (see figures 7 and 8) that closes valve 21 which is located at a second end of

the body. One of ordinary skill is able to locate the bimetallic element in a variety of areas yet retain the same functionality.

9. Claims 14-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Bellati in view of Rodd and further in view of Fahnoe. Bellati discloses functionally equivalent mounting means that keep the snap element in place, but does not teach a rod and flange. Fahnoe teaches arm 13 and pivot 12 read on the plate and rod respectively. The rod 12 clearly has a terminal end that bonds to the snap elements like a flange (figures 2 and 3). Thus, mounting means for a bimetal element, such as that claimed in claims 14-15, were known at the time of invention as functionally equivalent mounting devices for bimetals in dispensing devices. It would have been obvious to one of ordinary skill at the time of the invention, to use a plate and rod, as disclosed by Fahnoe, in order to fasten a bimetal element.

10. Claims 16-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Bellati in view of Rodd and further in view of Hattori. Bellati teaches the use of a bimetal snap element to control fluid flow in the detergent dispenser of a washing machine. He does not teach the use of two bimetal elements. Bimetal valves are common in the art of fluid flow, and are known to include two bimetal elements that interact. Hattori shows a bimetal valve with first and second bimetal discs (see claims 6, 33, and 39) that interact. Thus, such an arrangement was known at the time of invention, which allows response to multiple temperatures. Claims 18-19 regard properties of the metal that can be altered through routine experimentation. The temperature is considered to be a cause effective variable. It is well settled that determination of optimum values of cause

effective variables such as these process parameters is within the skill of one practicing the art. *In re Boesch*, 205 USPQ 215 (CCPA 1980). It would have been obvious to one of ordinary skill at the time of invention to use two bimetal elements, as taught by Hattori, for response to multiple temperature levels.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HECKERT whose telephone number is (571)272-2702. The examiner can normally be reached on Mon. to Friday, 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art
Unit 1711

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